

**DELAWARE HEALTH FACILITIES AUTHORITY**

**Minutes of Annual Meeting**

**of**

**September 28, 2017**

The Annual Meeting of the Delaware Health Facilities Authority (the “Authority”) was held after proper notice at 11:00 a.m., September 28, 2017, in the offices of Potter Anderson & Corroon LLP at 1313 N. Market Street, 6<sup>th</sup> Floor, Wilmington, Delaware.

Attending in person were Authority members (such individuals, the “Members”):

Rolf F. Eriksen (Chairman)  
Desmond A. Baker  
Lisa More  
Howard A. Palley, Ph.D.

Also attending in person were:

Matthew J. O’Toole of Potter Anderson & Corroon LLP, counsel to the Authority  
Eric R. Glickman of Potter Anderson & Corroon LLP, counsel to the Authority  
Chris Doyle of Public Financial Management, Inc.  
Peter Kennedy of Cover & Rossiter  
Lynne McElwee of Potter Anderson & Corroon LLP

The following individuals participated in the meeting via conference telephone call by means of which all participants in the meeting could hear each other:

Michael Tretina of Bayhealth Medical Center, Inc.  
Susan Doughty of Bayhealth Medical Center, Inc.  
Terry Murphy of Bayhealth Medical Center, Inc.  
John Cheney of Ponder & Co.  
Chuck Stafford of Ponder & Co.  
Peter Edelman of Stevens & Lee  
Emilie Ninan of Ballard Spahr LLP  
Kimberly Betterton of Ballard Spahr LLP  
Frank Tynan of Ballard Spahr LLP

There were no members of the public in attendance.

All documents referred to in these Minutes and not attached hereto are filed in the official records of the Authority. Copies are available upon request.

Chairman Rolf F. Eriksen called the meeting to order at 11:10 a.m.

**Consideration of Application for Revenue Bond Financing Submitted by Bayhealth Medical Center, Inc.**

The meeting was opened with a discussion of the Application for Revenue Bond Financing (the “Application”), submitted by Bayhealth Medical Center, Inc. (“Bayhealth”), requesting the Authority’s issuance of bonds in an amount not to exceed \$195,000,000.

Mr. O’Toole stated that, because Bayhealth amended the Application on September 22, 2017, the cover page and signature page to the Application should be revised and Bayhealth should re-execute the signature page. Mr. O’Toole also stated that the Expense and Indemnity Agreement to be entered into between Bayhealth and the Authority should be revised to address the September 22, 2017 amendment to the Application.

At Mr. Eriksen’s invitation, Bayhealth’s advisors and the Members participated in a discussion regarding the Application. In particular, Ms. Ninan, Mr. Cheney, and Mr. Stafford presented information to, and answered questions from, the Members, including in regard to the following matters.

It was explained to the Members that the proposed bonds would be issued in two series. Mr. Palley asked why the proposed bonds will have a variable interest rate, and Mr. Cheney reported that variable interest rates generally are lower and yield greater savings. In addition, Mr. Palley requested a summary of the financial arrangement proposed by Bayhealth. Mr. Cheney indicated that a supplemental memorandum offering clarity on the proposed financing would be provided.

In response to a question by Ms. More, Mr. Cheney reported that there will be no termination fee from PNC in connection with the financing.

Ms. More also asked whether the proposed bonds will be tied to LIBOR. Mr. Cheney reported that a LIBOR interest rate will be used, and the bond documents will provide that, if LIBOR is phased out, the parties will agree upon an alternative arrangement. Mr. Eriksen stated that Bayhealth should be prepared to address potential prospective issues related to the LIBOR phase-out.

Ms. Doyle asked whether there is a goal for the financing. Mr. Stafford reported that the goal is “five percent savings.” Mr. Stafford also discussed the escrow plan for the financing.

In response to questions by Ms. More, Mr. Cheney reported that the underwriter for the proposed financing is PNC, the co-manager is Bank of America Merrill Lynch, and the party to serve as trustee is under consideration.

Responses also were provided to Mr. Palley’s questions about how doctors and employees affiliated with Bayhealth are paid and whether Bayhealth has a for-profit or non-profit structure.

Mr. O'Toole reported that there was no public comment on the Application because no members of the public were in attendance. Those in attendance representing Bayhealth thanked the Members for their consideration, and the conference call ended.

Upon motion duly made and seconded, the Members unanimously adopted the written resolution attached hereto as Exhibit A, regarding the Expense and Indemnity Agreement, with such revision as was discussed earlier in the meeting.

The Members recessed from 12:08 p.m. to 12:18 p.m. Thereafter, the Members turned to other Authority matters.

#### **Minutes from Authority Annual Meeting on December 17, 2015**

The Members reviewed the Minutes of the annual meeting of the Authority held on December 17, 2015 (the "Annual Meeting Minutes") and the written resolutions attached hereto as Exhibit B regarding the Annual Meeting Minutes. Upon motion duly made and seconded, the Members unanimously adopted such written resolutions.

#### **Election of Officers**

The Members then discussed the election of officers of the Authority, and reviewed the written resolution attached hereto as Exhibit C regarding the election of officers of the Authority. Upon motion duly made and seconded, the Members unanimously adopted such written resolution.

#### **Revenues and Expenses for 2015 and 2016**

Mr. O'Toole presented to the Members summaries of the Authority's revenues and expenses for 2015 and 2016, a report of Potter Anderson's legal fees and disbursements paid by hospitals in bond transactions (2012-2017), a summary of the Authority's recent history of professional fee payments (2014-2016), and a summary of 2017 anticipated fees for professional services (collectively, and as attached hereto as part of Exhibit D, the "Revenue and Expense Documents").

Mr. O'Toole then reported that the Authority's operating expenses for the calendar year 2016 would be allocated among the participating facilities, consistently with the Authority's prior policy and practice, pro rata based on the amount of outstanding bonds issued by the Authority for each participating facility as of December 31, 2015.

After discussion, upon motion duly made and seconded, the Members unanimously adopted the written resolutions attached hereto as part of Exhibit D regarding the Revenue and Expense Documents and the methodology for allocating the 2016 operating expenses. Per prior direction of Mr. Eriksen, a copy of Potter Anderson's invoice for 2015 concerning Authority matters also is included as part of Exhibit D.

Mr. O'Toole reported on matters that Potter Anderson is handling for the Authority, including at Mr. Eriksen's request a review of the Authority's form of Application for Revenue Bond Financing, and suggested that Potter Anderson could undertake a review of the Authority's structure and administration, to include evaluation (in consultation with Public Financial Management, Inc.) of potential process improvements, possible amendments to the Delaware Health Facilities Act and the Authority's By-Laws, and review of the Authority's insurance coverage and investment of Authority funds. Mr. O'Toole also noted that Potter Anderson serves as the Authority's "back office" and maintains the Authority's records.

Mr. Kennedy discussed the Authority's audits and explained Cover & Rossiter's methodology in preparing audits for the Authority.

### **Operating Budget for 2017 and Allocations**

The Members reviewed the Authority's operating budget for 2017, written resolutions regarding the methodology for allocating expenses included in the budget among participating facilities, and discussed an estimate of each participating facility's ratable allocation of such expenses. After discussion, upon motion duly made and seconded, the Members unanimously approved the operating budget as presented and adopted the written resolutions attached hereto as Exhibit E regarding the operating budget and such allocations.

### **Old Business**

Mr. O'Toole reported that the Office of the Governor is aware of, and addressing, the vacancy in the membership of the Authority caused by the death of William G. Neaton.

Mr. O'Toole reported that the Authority's annual report for calendar years 2015 and 2016 would be ready for submission to the Governor upon the Authority's receipt of its audited financial statements for such calendar years.

The Members reviewed the written resolutions attached hereto as Exhibit F appointing Potter Anderson as general counsel and as custodian of the Authority, appointing Cover & Rossiter as auditor of the Authority, and authorizing the Authority's purchase of liability insurance. the Members unanimously adopted such written resolutions.

### **Adjournment**

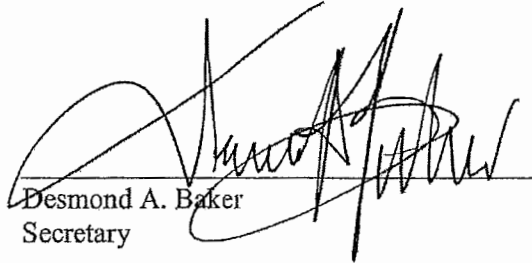
There being no further business, Mr. Eriksen adjourned the meeting at 1:00 p.m.

CERTIFICATION

I, Desmond A. Baker, hereby certify that the foregoing is a true and correct copy  
of the Minutes of Annual Meeting of the Delaware Health Facilities Authority held on  
September 28, 2017.

Date:

10/28/17

  
Desmond A. Baker  
Secretary